

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ERIC WHITFIELD,

Petitioner,

-v-

HAROLD N. GRAHAM,

Respondent.

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 11-29-11

No. 10 Civ. 3038 (RJS) (RLE)

ORDER ADOPTING REPORT AND
RECOMMENDATION

RICHARD J. SULLIVAN, District Judge:

Pro se Petitioner Eric Whitfield seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner filed his Petition in the Western District of New York on March 2, 2010; it was transferred to this District on April 14, 2010. By Order dated April 22, 2010, this matter was referred to the Honorable Ronald L. Ellis, Magistrate Judge.


On December 29, 2010, Judge Ellis issued the attached Report and Recommendation (the "Report") recommending that the Petition be denied. In the Report, Judge Ellis advised the parties that failure to file timely objections to the Report would constitute a waiver of those objections. *See* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b). No party has filed objections to the Report, and the time to do so has expired. *Cf. Frank v. Johnson*, 968 F.2d 298 (2d Cir. 1993).

When no objections to a report and recommendation are made, the Court may adopt the report if there is no clear error on the face of the record. *Adee Motor Cars, LLC v. Amato*, 388 F. Supp. 2d 250, 253 (S.D.N.Y. 2005); *La Torres v. Walker*, 216 F. Supp. 2d 157, 159 (S.D.N.Y. 2000). After reviewing the record, the Court finds that Judge Ellis's well-reasoned and careful Report is not facially erroneous. Accordingly, the Court adopts the Report in its entirety, and for

the reasons set forth therein, denies the Petition for a writ of habeas corpus. Because Petitioner has not made a “substantial showing of a denial of a constitutional right,” 28 U.S.C. § 2253(c)(2), a certificate of appealability will not issue. The Clerk of the Court is respectfully directed to close this case.

SO ORDERED.

Dated: November 29, 2011
New York, New York



RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE

A copy of this Order has been mailed to:

Pro se Petitioner:

Eric Whitfield
04-A-3512
Auburn Correctional Facility
Box 618
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Attorney for Respondent:

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